

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DAVID DREYER AND KATHERINE STEWART,
INDIVIDUALLY AND ON BEHALF OF OTHER
EMPLOYEES SIMILARLY SITUATED
Plaintiffs,

V.

BAKER HUGHES OILFIELD OPERATIONS, INC.,
D/B/A BAKER HUGHES BUSINESS SUPPORT
SERVICES,
Defendant.

[illegible]

CIVIL ACTION H-08-1212

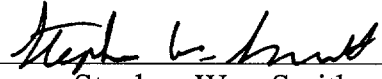
ORDER

Before the court are the proposed notice and consent forms of plaintiffs (Dkt. 30) and defendant (Dkt. 29). The court approves the attached notice and consent form (Appx. A), which contains language from both the plaintiffs' and defendant's proposals, having made the following substantive changes:

- Potential opt-in plaintiffs need not be informed that they may be liable for costs if Baker Hughes prevails. The court agrees with the reasoning of other courts that have rejected such provisions because they would unnecessarily chill participation in FLSA collective actions. *See, e.g., Austin v. CUNA Mut. Ins. Soc’y*, 232 F.R.D. 601, 608 (W.D. Wis. 2006).
- Baker Hughes’s proposed language indicating that it disputes the plaintiffs’ allegations is included in order to make the notice more neutral.
- The language informing potential opt-in plaintiffs that they must file a notice of consent to participate is not bolded in order to make the notice more neutral.
- The notice and consent form need not refer to the Professional Services Agreement because potential opt-in plaintiffs may choose not to be represented by plaintiffs’ counsel. Accordingly, the court has added language in the notice to inform potential opt-in plaintiffs that they may retain their own counsel if they decide to participate.

- Plaintiffs' proposed statement concerning the right of potential opt-in plaintiffs to participate regardless of partial payments or signed releases is included. *See Barrentine v. Arkansas-Best Freight Sys.*, 450 U.S. 728, 740-41 (1981).
- Plaintiffs' proposed statement regarding undocumented workers and the bolded final paragraph are included.

Signed at Houston, Texas on December 22, 2008.



Stephen Wm. Smith
United States Magistrate Judge

Appendix A

NOTICE OF FAIR LABOR STANDARDS ACT LAWSUIT

TO: All current and former U.S. based employees of Baker Hughes Oilfield Operations, Inc. ("Baker Hughes") who held non-managerial positions on the Enterprise Server Team of Baker Hughes Business Support Services at any time between April 18, 2005 and the present and who were not paid for hours worked in excess of forty (40) in any given work week at one-and-a-half (1.5) times their regular rate.

RE: Fair Labor Standards Act lawsuit against Baker Hughes

1. Purpose of This Notice

The purpose of this notice is to inform U.S. based employees of Baker Hughes who held non-managerial positions on the Enterprise Server Team of Baker Hughes Business Support Services at any time between April 15, 2005 and the present and who were not paid for hours worked in excess of forty (40) in any given work week at one-and-a-half (1.5) times their regular rate of their right to join this lawsuit claiming wages due for unpaid overtime.

This case was filed by David Dreyer and Katherine Stewart (together "Plaintiffs") in April 2008. Plaintiffs worked in non-managerial positions on the Enterprise Server Team of Baker Hughes Support Services. Plaintiffs claim that Baker Hughes misclassified the non-managerial employees on the Enterprise Server Team as exempt from overtime requirements and that they should have received overtime when they worked more than forty (40) hours in any given work week. In contrast, Baker Hughes asserts that its classification of the non-managerial employees on the Enterprise Server Team as exempt from overtime requirements was lawful and, therefore, no overtime is owed under the law. The court has not decided who is right. In fact, the court has taken no position in this case regarding the merits of the Plaintiffs' claims or Baker Hughes' defenses.

Please do not contact the court about this notice.

2. How to Participate

Enclosed you will find a form entitled "Notice of Consent." If you want to join the lawsuit, you must fill out, sign, and submit the form to Plaintiffs' lawyer, Trang Q. Tran, Tran Law Firm L.L.P., 3050 Post Oak Blvd., Suite 1720, Houston, TX 77056 (Fax: 713-623-6399; Phone: 713-223-8855). You must fill out, sign, and submit the form to Mr. Tran within forty-five (45) days of receiving this notice. An addressed, stamped envelope is enclosed for your convenience.

Though you must return the Notice of Consent form to Mr. Tran, you are not required to retain him as your lawyer. If you decide to participate, you are free to retain Mr. Tran or

any lawyer of your choosing to represent you.

You may submit the form even if you have received payments from Baker Hughes designated as “back overtime” or signed a release related to such payments. The court has not determined whether such a payment or release would be sufficient or binding.

3. Effect of Your Decision

If you join this lawsuit, you may be required to respond to written questions submitted by Baker Hughes’s lawyers, provide documents, give live deposition testimony, or participate in person at hearings or testify at the trial of this lawsuit in Houston, Texas. By submitting the Notice of Consent form to Mr. Tran, you also agree to proceed before a magistrate judge for all proceedings in this case, including trial and final judgment.

If you do not join this lawsuit by filling out, signing, and submitting the Notice of Consent form to Mr. Tran, you will not be bound by the judgment of the court and you will not receive any unpaid overtime wages or other relief through this lawsuit even if Plaintiffs win the case.

4. Rights of Undocumented Workers

The Fair Labor Standards Act covers employees who are citizens of other countries even if such employees do not have valid social security numbers or are undocumented. Undocumented workers are entitled to recover any unpaid overtime under the law.

THIS NOTICE HAS BEEN AUTHORIZED BY THE FEDERAL DISTRICT COURT, U.S. MAGISTRATE JUDGE STEPHEN WM. SMITH. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS’ CLAIMS OR THE DEFENDANT’S DEFENSES.

